

BEFORE THE

**Federal Communications Commission**

WASHINGTON, D. C. 20554

RECEIVED

MAR 30 1993

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 Redevelopment of Spectrum to )  
 Encourage Innovation in the )  
 Use of New Telecommunications )  
 Technologies )

ET Docket No. 92-9

To: The Commission

**COMMENTS OF THE  
 PUBLIC SAFETY MICROWAVE COMMITTEE  
 IN RESPONSE TO  
 PETITION FOR CLARIFICATION AND/OR RECONSIDERATION**

The Public Safety Microwave Committee ("PSMC") hereby submits the following Comments in response to the Petition for Clarification and/or Reconsideration filed by the Utilities Telecommunications Council ("UTC") in the above-captioned proceeding.

PSMC consists of the Associated Public-Safety Communications Officers, Inc. ("APCO"), the National Association of State Telecommunications Directors ("NASTD"), the International Bridge, Tunnel & Turnpike Association ("IBTTA") and the County of Los Angeles, California. PSMC has consistently opposed any change in frequency allocations that would displace state and local government microwave systems in the 2 GHz bands.<sup>1/</sup>

<sup>1/</sup> Comments of PSMC (June 8, 1992), Reply Comments of PSMC (July 8, 1992).

No. of Copies rec'd  
 List A B C D E

019

5

The Commission's First Report and Order established a mechanism to provide for the relocation of existing users of the band (subject to certain time frames to be determined in the Second Report and Order). Significantly, the Commission's stated it was exempting 2 GHz microwave facilities

licensed to the public safety and special emergency radio services -- including state and local governments, police, fire, and medical emergency communications -- from any involuntary relocation.

First Report and Order at ¶26, 57 Fed. Reg. 49020 (October 29, 1992). However, the rule adopted in the First Report and Order only refers to "public safety licensees." Id. at App. A., new Section 94.59(b).

UTC believes that the Commission should clarify its rules to read as follows:

licensees eligible to be licensed in any of the Public Safety Radio Services or the Special Emergency Radio Service will be exempt from any mandatory relocation.

PSMC supports the proposed clarification. The Commission clearly intended to exempt all state and local government licensees. The use of the term "public safety licensees" in the current rule is not inconsistent with that intent since the Commission has defined "public safety" to include local (and state) government, police, fire, highway maintenance, forestry-conservation, and emergency medical services. See Part 90, Subpart B, of the Commission's Rules; 47 C.F.R. §90.15, et seq. Nevertheless, the use of the term "public safety" (as opposed to the upper case

~~initials - 2. "Public Safety"~~

would be directly contrary to the Commission's statements in the First Report and Order and with recently expressed Congressional intent that all state and local government agencies must be exempt from mandatory relocation.<sup>2/</sup>

Furthermore, as UTC suggests, the exemption should apply to state and local government entities eligible in Public Safety Radio Services . This will prevent a legitimate state and local government agency from losing its exemption merely because the radio service identifier on its license is for another non-Public Safety Service in which the agency may also be eligible. Up until now, these radio service identifiers have had little relevance for microwave licenses, and should not become the sole criteria for the exemption.

---

<sup>2/</sup> See Comments of PSMC in Response to Third Notice of Proposed Rulemaking (filed January 11, 1993) (describing Sen. Bumpers' amendment to the FY1993 Senate Appropriations Bill that would have exempted from mandatory relocation "a State or local government agency that is a member of the National Association of Public Safety Communications" (NAPSC)).

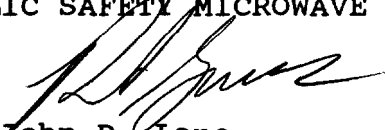
CONCLUSION

Therefore, for the reasons stated above, PSMC supports the requested clarification regarding the exemption of state and local government entities from mandatory relocation out of the 2 GHz band.

Respectfully submitted,

PUBLIC SAFETY MICROWAVE COMMITTEE

By:

  
John D. Lane  
Robert M. Gurss  
WILKES, ARTIS, HEDRICK & LANE,  
Chartered  
1666 K Street, N.W.  
Washington, D.C. 20006  
(202) 457-7800

Its Attorneys

March 30, 1993

CERTIFICATE OF SERVICE

I, Jane Nauman, hereby certify that a copy of the foregoing "Comments of the Public Safety Microwave Committee," was served this 30th day of March, 1993, by first-class mail, postage prepaid, to the following individual at the address listed below:

Jeffrey L. Sheldon, Esq.  
Utilities Telecommunications Council  
1140 Connecticut Avenue, N.W.  
Suite 1140  
Washington, D.C. 20036

  
Jane Nauman